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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,139	09/10/2003	Christopher W. McNutt	64671-0480	3033

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EXAMINER

NGUYEN, KHIEM M

ART UNIT PAPER NUMBER

2839

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/659,139	Applicant(s) MCNUTT ET AL.	
	Examiner Khiem Nguyen	Art Unit 2839	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2, 4, 11 and 12 is/are allowed.
- 6) ☒ Claim(s) 13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. Applicant's request for Continued Examination (8/16/05) is acknowledged.

Claim Rejections - 35 USC § 103

2. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art (APA) or EP'017 in view of Yang et al. and Hawtof et al.

The APA or EP'017 each discloses a buffer tube for use in a fiber optic cable, which comprise a blend or an alloy of polymer materials, which are not of polypropylene and polyphenylene oxide as being recited in the claims of the present invention.

However, the use of a blend or alloys of different polymers as materials for buffer tubes are old and well known. Yang et al. Discloses that it is known to made a buffer comprising an alloy of polypropylene-polyethylene copolymer. Hawtof et al. discloses it is known to use polyphenylene oxide as coating for optic Fibers.

Therefore, it would have been obvious for one of ordinary skilled in the art to construct or provide the buffer tubes of the APA or EP'017 out of an alloy of polypropylene and polyphenylene oxide in view of the teachings of Yang et al. and Hawtof et al. Yang et al. provide the suggestions or motivation for using an alloy of different polymers as materials for buffer tube cable construction to provide better mechanical and electrical properties.

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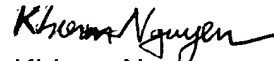
Also, it is noted that the term "cable" as being recited in claim 13 is broader in scope than the term "buffer tube", therefore the prior art buffer tube limitation is readable on the cable limitation of the invention.

Allowable Subject Matter

3. Claims 2, 4 and 11-12 are allowed.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khiem Nguyen whose telephone number is 571 272-2096. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TC Patel can be reached on 571 272-2098. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Khiem Nguyen
Primary Examiner
Art Unit 2839